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**Letter dated 2 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council**

I write with reference to my letter of 10 April 2002 (S/2002/403). The Counter-Terrorism Committee has received the attached supplementary report from El Salvador, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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## Annex

[Original: Spanish]

### Letter dated 20 June 2002 from the Permanent Representative of El Salvador to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your note dated 10 April 2002, I attach herewith the response of the Government of El Salvador to the observations and questions raised in connection with the report submitted on 21 December 2001, pursuant to resolution 1373 (2001) of the Security Council (see enclosure).

(*Signed*) José Roberto **Andino Salazar**
Ambassador
Permanent Representative

**Enclosure**

# Information provided by the Republic of El Salvador supplementary to the report submitted pursuant to Security Council resolution 1373 (2001)

## (Replies to the observations of the Counter-Terrorism Committee of the Security Council)*

June 2002

* The annexes submitted with the report are on file with the Secretariat and are available for consultation.

## Replies to the observations of the Counter-Terrorism Committee on the report submitted by El Salvador pursuant to Security Council resolution 1373 (2001)

**Subparagraph 1 (a):**

- *The report states that the Government of El Salvador responded to the United States' request concerning groups or individuals that provide financial support to terrorist activities. Could El Salvador please explain what measures were taken regarding the list of names? Are financial institutions under any obligation to report on, or freeze, accounts or economic resources held by such groups or individuals?*

The measures taken by the Financial Investigation Unit (UIF) of the Office of the Attorney-General of the Republic, with the collaboration of the National Civil Police, the supervisory and oversight agencies of the financial institutions, and others, with respect to the various requests for legal assistance made by the United States of America in connection with the financing of terrorist acts following the attacks of 11 September last consist of checking the various databases to which access is available, in conformity with the Code of Criminal Procedure and the Money Laundering Act. Our domestic laws contain only legal provisions of a general nature for the investigation of terrorist acts, but no specific or special measures against the financing of terrorism.

As for whether financial institutions are required to report or freeze accounts or financial assets owned by terrorist groups or individuals or which are used to finance terrorist acts, the reply is yes, based on articles 180 et seq. of the Code of Criminal Procedure, which provide for the legal classification of "seizure" as a synonym for confiscation or preventive takeover and which are applicable to the investigation of any crime, and on Security Council resolution 1373 (2001).

However, it must be made clear that the institutions under this legal obligation cannot on their own freeze bank accounts or funds; they may do so only on the express written instructions of the Attorney-General of the Republic, through UIF or, where appropriate, through the competent court.

The obligation of financial institutions to report any suspicious operation does not flow specifically from special domestic legislation against terrorist acts, but from the Money Laundering Act. In particular, it derives from the guidelines of UIF for the prevention of money laundering, in implementation of the eight special recommendations against terrorism made by the Financial Action Task Force (FATF), which expressly provide as follows:

> "... Special provision. Institutions shall report to the Financial Investigation Unit (UIF) of the Office of the Attorney-General of the Republic and to the competent Superintendent, as a suspicious or irregular operation or transaction, independently of the amount involved, any operation, transaction or account concluded or opened by clients or users about whom there is evidence or information obtained by any means linking or associating them directly or indirectly with any of the criminal activities referred to in article 6 of the Money Laundering Act, and in particular to local or international terrorist acts ...".

**Money Laundering Act**

"Other crimes that give rise to money laundering

Art. 6. This Act covers any criminal activity that gives rise to money laundering, particularly the following, where applicable:

(a) The crimes set out in chapter IV of the Drug-Related Activities Act;

(b) Trafficking in people;

(c) Fraudulent management;

(d) Stealing and theft of vehicles;

(e) Kidnapping;

(f) Extortion;

(g) Illicit enrichment;

(h) Illicit negotiations;

(i) Embezzlement of public funds;

(j) Bribery;

(k) Illegal trafficking in and stockpiling of arms;

(l) Tax evasion;

(m) Contraband;

(n) Perversion of justice;

(o) Fraud; and

(p) Any act of concealment or legalization of money or assets derived from criminal activities".

**Subparagraph 1 (b):**

- *Please outline the provisions of the Penal Code which criminalize the wilful provision or collection of funds in El Salvador by its nationals or others as required under this subparagraph. Does the Government of El Salvador have any intention of amending its Penal Code or Criminal Procedure Code in order to introduce measures for the suppression of the financing of terrorism?*

Our national criminal legislation currently criminalizes only terrorist acts and incitement and conspiracy to commit terrorist acts, which are specifically named and for which punishment is prescribed in articles 343 and 344, respectively, of the Penal Code.

None of the modalities contemplated for these crimes includes the financing of such acts. The Inter-agency Group against Terrorism (GRICTE) is currently carrying out a technical evaluation of the possibility of proposing reforms to the Penal Code or of enacting a special law that would characterize the financing of terrorist acts as a separate crime.

Financing the commission of any criminal act, including terrorist acts and incitement and conspiracy to commit terrorist acts are punished as crimes of

complicity, depending on the degree of participation in the act, in accordance with article 36 of the Penal Code.

- *The Penal Code of El Salvador refers several times to terrorist acts (articles 22A, 343, 344), but it is not clear how terrorist acts are defined. Could El Salvador please elaborate on this?*

In conformity with article 343 of the Penal Code, terrorist acts are: "... acts liable to cause alarm, fear or terror, using: explosive or inflammable substances, arms or artefacts that are normally capable of causing harm to the life or safety of persons ..."

GRICTE is currently reviewing the definition given in the Penal Code to terrorist acts and the consistency of that definition with the specific acts characterized as crimes in the international agreements to which El Salvador has subscribed with a view to their harmonization.

**Subparagraph 1 (c):**

- *The report states that it is possible to freeze all funds of an alleged wrongdoer suspected of infringement of the law (Article 186, Banking Act). Does "the infringement of the law" refer to Article 186 of the Banking Act (on illegal fund-raising) only? Is it possible to freeze funds of persons/entities suspected of supporting or committing terrorist acts?*

The reference in the report to article 186 of the Banking Act, specifically the expression "infringement of the law", should be understood as referring only and exclusively to the crime of illegal public fund-raising referred to in articles 184 et seq. of the same Banking Act in relation to article 240 A of the Penal Code. However, as explained in the reply given under paragraph 1 (a) of this report, the obligation of financial institutions to report any suspicious operation derives specifically from the Money Laundering Act, particularly as it relates to terrorist acts in any form, and they are so obliged under the guidelines of UIF for the prevention of money laundering.

- *Please outline the provisions that permit the freezing of funds held in El Salvadoran financial institutions by individuals and entities carrying on legitimate activities in El Salvador or living outside El Salvador who are supporting terrorism outside El Salvador.*

It is possible to order the freezing of bank accounts, funds, rights and property that are under any investigation initiated by the authorities of other countries aimed at punishing the perpetrators of criminal activities related to terrorist acts, particularly through the implementation of international agreements or treaties, criminal and procedural laws and, specifically, the Money Laundering Act, which provides as follows:

> "Article 4. ... Money laundering shall also include any operation, transaction, action or omission designed to conceal illicit origin and to legalize property and assets derived from criminal acts committed in or outside the country ...
>
> Article 6. ... Any criminal activity that gives rise to money laundering shall fall within the scope of this Act ...

Article 25. ... In case of urgent necessity, the Attorney-General of the Republic may order the freezing of the bank accounts of accused persons, as well as of the funds, rights and property under investigation, in the crimes covered by this Act ...".

**Subparagraph 1 (d):**

- *Does El Salvador have any provisions for regulating alternative money transfer agencies? Please outline them.*

"Article 2 of the Money Laundering Act applies to any individual or corporation, even if such corporation is not legally constituted ...

The institutions and activities that fall within the scope of this Act are, among others:

(i) Institutions and individuals that make systematic or substantial transfers of funds, including those that grant loans; ... and

(ii) Any other institution, association, commercial company, financial group or conglomerate ...".

Under the Act, such entities and persons shall have the following obligations, among others:

1. A "Know your client" policy;
2. Archiving and storage of documents;
3. Training of staff and management;
4. Establishment of internal oversight mechanisms to verify compliance with the law;
5. Policies governing appropriate conduct for bank managers, supervisors and employees;
6. Preparation of lists of clients by name;
7. Period of time during which these lists must be maintained;
8. Mandatory form for reporting cash transactions of more than 500,000 colones;
9. Designation of oversight officials;
10. Penalties for breaches of the regulations, among others.

It should be pointed out that there is no explicit set of regulations governing offshore banking in our national financial laws, only a variety of provisions that specifically prohibit public fund-raising without the express approval of the Office of the Financial Superintendent. (Article 240 A of the Penal Code characterizes this activity as a crime.)

- *Please outline the legal obligations of financial institutions and other legal persons to report suspicious transactions to the public authorities.*

Reference should be made here to articles 9 (a) and 10 (e) (iii) of the Money Laundering Act:

**"Obligations of institutions subject to this Act**

**Art. 9 — Institutions are required to report to UIF in writing or by any other electronic means within a period of three working days any operation or multiple transaction performed by a single client that exceeds in one day or within a period of one month 500,000 colones or the equivalent in foreign currency, in accordance with the fluctuations of the national currency, provided there is sufficient reason to consider such operations or transactions irregular or when UIF so requires.**

**Art. 10 ...**

**(e) Under the terms set out in article 4(4) of this Act, banks, financial institutions, exchange houses and stock exchanges shall adopt policies, rules and guidelines of conduct to be observed by their administrators, managers and staff, consisting of:**

**...**

**(iii) Mandatory, prompt and full reporting to the Office of the Attorney-General of the Republic, through UIF and the competent Superintendent any relevant information on the handling of funds, whose amount or characteristics bear no relation to the economic activity of their clients or to the transactions of their users in terms of the amounts involved or their number, complexity or characteristics."**

**In addition, the provisions of articles 12 to 17 of the Money Laundering Act are implemented:**

**"Chapter III**
**Irregular or suspicious transactions**

**Article 12. Irregular or suspicious transactions shall be deemed to be all unusual operations outside of the normal pattern of transactions which, while not involving large amounts are regular, without any obvious economic or legal basis, and all inconsistent operations or operations that bear no relation to the type of economic activity of the client.**

**Article 13. In order to detect irregular or suspicious transactions, institutions shall pay special attention to those transactions that exhibit the characteristics indicated in the article above, particularly operations by clients involving:**

**(a) Multiple transfers from one day to the next or outside of normal working hours, from one account to another, by direct telephone or electronic communication to the institution's computer system;**

**(b) Early repayments of loans or payments in excess of agreed instalments, or persons making sudden payments of problem loans, without any reasonable explanation for the origin of the money;**

**(c) Use of international monetary instruments that are out of proportion to the client's economic activity.**

**Article 14. — Institutions are also required to pay special attention to client operations that have markedly unusual characteristics, such as:**

**1. Loans backed by certificates of deposit and other investment securities;**

2. When clients make frequent visits to the safe deposit box area and subsequently make a cash deposit in the same branch of the bank in an amount just below the limit that would trigger the legal requirement for a transaction form to be completed;

3. Purchase of cashier's cheques, travellers' cheques or any type of special cheques, with large sums of money in cash or just under the amount that would trigger a reporting requirement, without apparent reason;

4. Establishment of trusts by individuals or legal persons containing substantial deposits of money in cash;

5. Accounts opened in the name of exchange houses that accept national and international transfers or structured deposits;

6. Maintaining accounts that show frequent deposits in automated teller machines (ATMs); and

7. Accounts into which monetary instruments marked with strange signs or symbols are deposited.

Article 15. — The conduct of clients is considered to be suspicious when they attempt to evade compliance with the requirements for information or registration, such as:

(a) Refusing to provide the information required for the appropriate form, once they have been told that the form has to be filled out; and

(b) Forcing or attempting to force an employee of the institution not to keep a record of a particular transaction.

Article 16. — Institutions shall examine transfers of funds with such characteristics as the following:

1. Deposits of funds in several accounts, usually in quantities under the reporting threshold, which are then consolidated into a main account and transferred outside the country;

2. When the institution is instructed to transfer funds abroad and then to expect the same amount transferred back from other sources;

3. Transfers of money to another country, without any change in the type of currency; and

4. Receipt of transfers and immediate purchase of monetary instruments to make payments to third parties.

Article 17. — As part of their "know your client" policy, institutions shall require clients to provide the information necessary to achieve these objectives. Such information shall be considered insufficient and suspicious when, for example, clients:

(a) Refuse to provide complete information about the purpose of the transaction, prior banking relationships, or the location or names of directors and representatives;

(b) Refuse to provide personal information when purchasing monetary instruments above the legal limit or whose amounts bear no relation to the economic activity of the client or user;

(c) Request to open an account without references, local address, identification or other appropriate documents, or refuse to provide any other information that the bank may require to open an account;

(d) Present suspicious or patently false identification documents;

(e) Have no record of employment or apparent source of income;

(f) Are reluctant to reveal details of their activities or to provide financial records of them;

(g) Present financial records that are markedly different from other transactions involving a similar activity; and

(h) Provide information that is false or inexact".

**Subparagraph 2 (a):**

• *Could El Salvador please outline how it has enforced the Framework Treaty on Democratic Security in Central America?*

Article 18 of the Treaty establishes cooperation in preventing and combating criminal activities having a regional or international impact, such as terrorism, sabotage and organized crime, and preventing within their territory all available means the planning, preparation and execution of such activities.

In addition, article 47 of the Treaty establishes that the Meeting of Presidents, the Council of Ministers of Foreign Affairs and the Security Commission of Central America are the bodies responsible for dealing with regional and international security matters; the Security Commission is subordinate to the other bodies mentioned.

The Security Commission is composed of the Vice-Ministers for Foreign Affairs and the vice-ministers or responsible officials in the areas of defence and public security of the Central American countries. It implements the decisions on security matters entrusted to it by the Meeting of Presidents or the Council of Ministers for Foreign Affairs and any decisions that it adopts itself, including in the following areas:

– Evaluating compliance with Central American agreements on security matters; strengthening the mechanisms for coordinating operations in the areas of defence, public security and humanitarian cooperation when faced with emergencies, threats and natural disasters; and monitoring compliance with the provisions of the Treaty and performing any other duties assigned to it therein.

The Commission organizes its work through subcommittees on security, defence and legal matters, and also receives support from the General Secretariat of the Central American Integration System.

In their declaration "Central America united against terrorism", the Central American Presidents entrusted the Security Commission with taking the necessary steps; accordingly, in October 2001, the Commission adopted the Central American

Plan for Comprehensive Cooperation to Prevent and Combat Terrorism and Related Activities.

The provisions of the treaty, which are implemented through the Security Commission and in the context of the regional plan against terrorism, are applied at the national level by the Ministry of the Interior, the Ministry of National Defence, the National Civil Police, the Directorate of Migration, the Directorate of Customs and other bodies involved in the national implementation measures because they deal with the subject of terrorism.

In that connection, and in accordance with the strategic actions of the regional plan against terrorism, El Salvador has implemented the Treaty through the following operational measures:

**Strengthening of border, port and airport security**

The "Falcon Task Force" provides security and protection at El Salvador International Airport through the Comalapa Group and at the port of Acajutla through the Acajutla Group.

**(a) El Salvador International Airport**

- The Comalapa Group, composed of units of the Salvadoran armed forces, establishes security in approach and loading zones, in the street along the perimeter and at inspection points, and carries out remote and close patrols.
- In coordination with the National Civil Police, it provides security, monitoring and inspection, in the ramp area and the Independent Port Commission station, monitors traffic and access to the security check area, monitors the main entrance, lobbies and vital equipment, and patrols the highway leading from the airport to San Salvador and vice versa.

**(b) Port of Acajutla**

- The Acajutla Group, composed of units of the Salvadoran armed forces, provides security on secondary approaches to the Port of Acajutla and carries out land, sea and wharf patrols.
- In coordination with the National Civil Police, it provides security, monitoring and inspections in the communications centre, the main approach, shops and sensitive areas.

**Implementation of the "Guardians I" Plan ("One hundred per cent plan")**

- Plans are being made for the development of joint operations to monitor illicit goods trafficking nationwide through joint public security commands at the departmental level.
- Monitoring is carried out at 31 land and sea "blind crossings".
- Security and monitoring of the vehicle assembly points located at the Santa Ana land customs office and the Port of Acajutla.

– Escorting goods transport vehicles in transit through the national territory.

**Subparagraph 2 (b):**

• *Does El Salvador have any arrangement for giving early warning to the countries other than those within Central America and the Caribbean?*

Currently, the only mechanism for giving early warning to countries other than those within Central America is the INTERPOL National Central Bureau.

**Subparagraph 2 (c):**

• *The report states that a draft special act for determining the status of refugees is currently before the Legislative Assembly. Does this draft also provide for denying safe haven to those who finance, plan, support or commit terrorist acts?*

"Terrorist acts" are not referred to explicitly as a ground for denying refugee status, but such acts are implicitly included in the reference to a "crime against peace ... or a crime against humanity". Moreover, these provisions are expressly modelled on the provisions of article 1 (F) of the 1951 Convention relating to the Status of Refugees.

Nevertheless, article 3 of the draft act entitled "Special Act for Determining the Status of Refugees" contains provisions for the denial of refugee status. The grounds for denial set forth in the draft are as follows:

(a) Committing a crime against peace, a war crime or a crime against humanity, as defined in the secondary legislation of El Salvador and in the international instruments drawn up to make provision in respect of such crimes;

(b) Committing a serious non-political crime outside the country of refuge prior to admission to that country as a refugee; and

(c) Being guilty of acts contrary to the purposes and principles of the United Nations.

• *Please indicate briefly the legislative measures in force for excluding or expelling terrorists.*

Salvadoran legislation contains no specific provision ordering the exclusion or expulsion of terrorists from the national territory, because terrorist acts are regarded as serious crimes and the legal system provides for these crimes to be punished either in national courts or in foreign courts, when extradition of the accused is granted.

As a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees, El Salvador applies, in the national context, the provision in article 32 of the Refugee Convention which refers to the "expulsion" of a refugee for reasons of national security or public order. This same provision is included in article 44 of the draft Special Act for Determining the Status of Refugees which is currently before the Legislative Assembly.

**Subparagraph 2 (d):**

- *Are there provisions in the Penal Code that criminalize the actions of those who plan, finance, facilitate or commit terrorist acts against other countries using the territory of El Salvador?*

Currently, there are no express provisions of this kind. We draw the Committee's attention again to the statement in this report under subparagraph 1 (b), concerning the technical study being carried out by GRICTE.

**Subparagraph 2 (e):**

- *Please elaborate on the study referred to in the report to amend the Penal Code in the area of international humanitarian law. Please describe the progress of these amendments.*

GRICTE also wishes to draw the Committee's attention to the fact that the study carried out by the Inter-agency Committee on International Humanitarian Law, initially mentioned in the report submitted by El Salvador in December 2001, covers only war crimes and crimes against humanity, not the specific subject of terrorism.

The Inter-agency Committee on International Humanitarian Law has prepared a draft amendment to title XIX of the Penal Code, entitled "Crimes against humanity". This proposal will be submitted shortly to the Legislative Assembly for its study and approval.

**Subparagraph 3 (a), (b) and (c):**

- *Please provide a list of any bilateral arrangements for the exchange of information and cooperation entered into by El Salvador with countries outside Central America.*

1. Cooperation Agreement between the Government of the Republic of El Salvador and the Government of the United States of America on access to and use of the facilities of El Salvador International Airport by the United States for the purpose of aerial monitoring of drug-related activity;

2. Agreement between the Republic of El Salvador and the Kingdom of Spain on cooperation in preventing the use and combating the illicit trafficking of narcotic drugs and psychotropic substances and in controlling chemical precursors and regulated substances;

3. Agreement between the Republic of El Salvador and the United Mexican States concerning cooperation in combating drug trafficking and drug dependency;

4. Convention on judicial assistance in criminal matters between the Kingdom of Spain and El Salvador;

5. Convention on judicial assistance in criminal matters between El Salvador and Peru;

6. Convention between the Government of the Argentine Republic and the Government of the Republic of El Salvador on preventing the illegal use and suppressing the illicit trafficking of narcotic drugs and psychotropic substances;

7. Convention between the Government of the Republic of El Salvador and the Government of the Eastern Republic of Uruguay on preventing the illegal use and suppressing the illicit trafficking of narcotic drugs and psychotropic substances and their basic chemical precursors and products;

8. Cooperation Treaty between the Government of the Republic of El Salvador and the Government of the United Mexican States on mutual judicial assistance in criminal matters;

9. In the framework of the Conference of American Armies, the armed forces of El Salvador will participate, from 23 to 27 June 2002, in the Twelfth Specialized Conference on Intelligence, to be held in Colombia; the main purpose of the conference is "Strengthening intelligence cooperation between American armies".

**Subparagraph 3 (d):**

- *Could El Salvador please describe how it intends to follow up its examination of the Convention for the Suppression of Terrorist Bombings and the Convention for the Suppression of the Financing of Terrorism?*

El Salvador is making every effort to complete the domestic procedures that will enable it to become a party to both conventions in the shortest possible time.

In the case of the International Convention for the Suppression of Terrorist Bombings, public opinion is in favour of El Salvador becoming a party to that convention; it is currently being submitted to the Legislative Assembly for ratification.

With regard to the International Convention for the Suppression of the Financing of Terrorism, given the consensus on the need to become a party to this convention, the relevant study has been completed; the declarations to be made by El Salvador regarding the convention are still pending. The domestic accession procedure will continue.

The Committee should be aware that the domestic procedure followed by El Salvador for ratifying or acceding to an international instrument (be it an agreement, treaty, accord, convention, memorandum of understanding, exchange of notes, amendment, protocol or addendum), is as follows:

- The Ministry of Foreign Affairs is responsible for arranging, negotiating, signing and renouncing international instruments, after hearing the views of the national institutions seized of the matter because of the subject dealt with and their competence.
- Once the relevant views have been obtained and the negotiating process has concluded, as the case may be, the international instrument is signed, or, where appropriate, the ratification procedure prescribed by national law is directly initiated. Where what is required is signature, the ratification procedure can begin once the instrument has been signed.
- The formal ratification process that allows international instruments to become the law of El Salvador begins when the Ministry of Foreign Affairs seeks the President's consent to initiate the law. If the President has signed the international instrument, consent is not sought.

– Once the Ministry of Foreign Affairs has received authorization to initiate the law, it draws up the executive agreement by which the international instrument is approved and submitted to the Legislative Assembly for ratification.

– Once the international instrument has been ratified, the Legislative Assembly sends it, together with the legislative decree containing ratification, to the Presidency for the approval and endorsement of the President and the Minister for Foreign Affairs, respectively. The international instrument, together with the aforesaid documents (executive agreement and legislative decree) is then transmitted to the *Official Gazette* for publication.

– If the international instrument so stipulates, the counterpart or the depositary is informed that the instrument has entered into force in respect of the Republic of El Salvador. Or, if the international instrument so provides, instructions are given to deposit the instrument of ratification or accession with the relevant organizations and international bodies.

• *Does El Salvador intend to ratify the International Convention on the Physical Protection of Nuclear Material?*

It is currently under consideration by the institutions called upon to give an opinion in the matter because of the subject dealt with and their competence.

**Subparagraph 3 (e):**

• *Please outline the measures which have been taken to implement the relevant international conventions and protocols relating to terrorism to which El Salvador is a party.*

GRICTE has taken into consideration the analysis of the implementation of the new international instruments relating to the fight against terrorism to which El Salvador is a party in order to identify the steps taken to comply with the international conventions and protocols in this area. The results of the analysis will be transmitted in due course.

**Subparagraph 3 (g):**

• *Have the crimes set forth in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the bilateral extradition treaties to which El Salvador is party?*

El Salvador has included and includes in the bilateral and multilateral extradition treaties that it has signed, and in those currently being negotiated, all of the crimes subject to extradition that are set forth in the international conventions and protocols relating to terrorism to which it is a party. These treaties are the law of El Salvador and, as such, must be complied with.

**Paragraph 4:**

• *Has El Salvador addressed any of the concerns expressed in paragraph 4 of the resolution?*

It should be noted that El Salvador has actively endeavoured to promote and support efforts and initiatives at the national, subregional, regional and international

levels to strengthen the fight against the serious threat to international security that terrorism represents.

In that connection, mention should be made of El Salvador's active participation in the implementation of the Framework Treaty on Democratic Security in Central America; the implementation of the bilateral and international treaties that help to combat this scourge; and its active and positive participation in regional and international forums for combating international terrorism, particularly those aimed at the adoption of new international instruments against terrorism.

Note should be taken of the establishment of GRICTE, which has played a leading role in national coordination of the fight against terrorism.

**Other matters:**

- *Could El Salvador please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.*

With regard to the organizational chart requested in this paragraph, please find, enclosed herewith, a descriptive table of the main actions and tasks carried out by the member institutions of GRICTE, which are directly involved in the implementation of the laws, regulations and other documents which El Salvador has at its disposal in complying with the provisions of Security Council resolution 1373 (2001).

**Institutional mechanisms for enforcement of the laws, regulations and other instruments that contribute to the implementation of resolution 1373 (2001)**

| *Institution* | *Operational unit* | *Activities* | *Applicable legislation* | *Liaisons* | *Observations* |
|---|---|---|---|---|---|
| Office of the Attorney-General of the Republic | Financial Investigation Unit (UIF) | Mission: to work towards the prevention, detection, punishment and eradication of the crime of money-laundering and its concealment, by ensuring the free circulation and movement of goods in the marketplace, thereby preventing the entry into the legal economy of goods derived from criminal activities.<br>1. Ensure that institutions subject to the Money Laundering Act and their oversight and supervisory bodies fulfil their obligations under the Act;<br>2. Recommend, where necessary, the design and modification of the forms used by institutions to monitor and report suspicious transactions and the transactions of their clients when the amounts involved exceed the limits set by the Act;<br>3. Issue instructions that help institutions to detect the conduct of users and clients who engage in | – United Nations Conventions (1961, 1971, Protocol of 1972, and 1988);<br>– Central American Convention on the Prevention and Punishment of Money-Laundering Crimes and Crimes Linked to Illicit Drug Trafficking and Related Crimes;<br>– Treaty on reciprocal legal assistance in criminal matters among the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama;<br>– Penal Code;<br>– Code of Criminal Procedure;<br>– Drug-related Activities Act;<br>– Money Laundering Act;<br>– Guidelines for the implementation of the Money Laundering Act;<br>– Guidelines for the prevention of money- | – National Civil Police;<br>– National Registration Centre;<br>– Central Reserve Bank;<br>– Office of the Financial Superintendent;<br>– Office of the Securities Superintendent;<br>– Office of the Commercial Bonds Superintendent;<br>– Ministry of Finance;<br>– Banking Association of El Salvador;<br>– Financial Intelligence Units of other countries;<br>– Interpol;<br>– Embassy of the United States of America, and others. | |

| Institution | Operational unit | Activities | Applicable legislation | Liaisons | Observations |
|---|---|---|---|---|---|
| | | suspicious activities or transactions involving possible money-laundering;<br>4. Investigate complaints by any official of the Office of the Attorney-General, other officials or authorities and employees in general or authorities of the State, concerning activities related to money-laundering, and complaints by members of civil society;<br>5. To administer the special patrimony referred to in article 23 of the Money Laundering Act and to use it for the purpose established in the Act;<br>6. Collect from State agencies and institutions and, in particular, the Ministry of Finance, the Central Reserve Bank, the Register of Real Property and Mortgages, the Register of Trade and other public registers, and from public oversight and supervisory bodies all financial information from institutions and activities subject to the provisions of the Money Laundering Act that relate to | laundering in financial intermediation institutions;<br>– Banking Act;<br>– Non-banking Financial Intermediaries Act;<br>– Exchange Houses Act;<br>– Insurance Company Act and regulatory provisions;<br>– Stock Exchange Act;<br>– Commercial Code, and others. | | |

| Institution | Operational unit | Activities | Applicable legislation | Liaisons | Observations |
|---|---|---|---|---|---|
| | | commercial transactions which may be associated with money-laundering;<br><br>7. Establish, in accordance with article 13 of the Money Laundering Act, the content of the forms which institutions should carry to monitor transactions by their clients that exceed the amounts established for cash transactions and fail to fulfil the conditions set out in article 9 of the above-mentioned Act, and determine how the above-mentioned institutions should report such transactions to UIF, as they are required to do;<br><br>8. Establish channels for obtaining information from sources or persons in the society interested in providing information on the crime of money-laundering and other criminal activities; and<br><br>9. Such other provisions as may be set out in the Money Laundering Act. | | | |

| *Institution* | *Operational unit* | *Activities* | *Applicable legislation* | *Liaisons* | *Observations* |
|---|---|---|---|---|---|
| Office of the Attorney-General of the Republic | Unit for Crimes against Life and Physical Integrity | Direct the investigation and promote the institution of legal proceedings for crimes and wrongful acts involving the life or physical integrity of persons. | – International treaties and conventions on human rights and terrorism to which El Salvador is a party;<br>– Penal Code;<br>– Code of Criminal Procedure. | – National Civil Police;<br>– Institute of Forensic Medicine;<br>– Relief and Public Service Institutions;<br>– Judicial organ;<br>– Non-governmental organizations;<br>– Ministry of Public Health and Social Welfare;<br>– Municipalities;<br>– Office of the Attorney-General of the Republic;<br>– Division of Technical and Scientific Police;<br>– Public and private entities. | |
| Armed Forces of El Salvador | Army, Air Force and Navy | 1. Strengthening of security at borders, ports and airports, to which end various measures have been implemented, including those relating to:<br>– External security;<br>– Loading zones;<br>– Perimeter streets;<br>– Inspection points;<br>– Extended and proximity patrols. | – Constitution of the Republic;<br>– Organic Law of the Armed Forces;<br>– Framework Treaty on Democratic Security in Central America. | With all relevant agencies. | Establishment of the "HALCON" task force, charged with the security and protection of the facilities of the El Salvador International Airport and the port of Acajutia since 23 September 2001. |

| Institution | Operational unit | Activities | Applicable legislation | Liaisons | Observations |
|---|---|---|---|---|---|
| | | (a) In coordination with the National Civil Police, implement security, control and registration measures in the following areas:<br>– Ramp area;<br>– Autonomous Port Executive Committee (CEPA) parking area;<br>– Traffic control;<br>– Entry into the inspection room;<br>– Main entrance;<br>– Waiting rooms;<br>– Vital equipment;<br>– Patrols on the highway to San Salvador.<br>(b) Security measures in the following areas:<br>– Communications centre;<br>– Main access;<br>– Warehouses;<br>– Sensitive points.<br>2. Joint operations for the control of illegal traffic are planned and implemented through Joint | | | |

| *Institution* | *Operational unit* | *Activities* | *Applicable legislation* | *Liaisons* | *Observations* |
|---|---|---|---|---|---|
| | | Departmental Public Security Commands (CCSPD), mechanisms are in place to carry out inspections at 31 unauthorized (blind) land and maritime border crossings, security and control at two points with heavy vehicular traffic (overland customs checkpoint at Santa Ana and Puerto de Acajutia) and escort of vehicles transporting goods in transit through the national territory.<br><br>3. Provide security for important persons, and others. | | | |
| Office of the President of the Republic | Anti-Drug Commission of El Salvador | The Anti-Drug Commission of El Salvador, in its capacity as the lead agency for:[1]<br><br>– Implementing and ensuring full compliance with the Constitution, treaties to which El Salvador is a party, laws, regulations and ordinances relating to drug supply and demand;<br><br>– Elaborating and implementing a national anti-drug plan that provides for both control of the supply and reduction in demand; | *International*:<br><br>– United Nations Conventions (1961, 1971, Protocol of 1972 and 1988);<br><br>– Palermo Convention;<br><br>– CICAD/OAS Anti-Drug Strategy in the Hemisphere;<br><br>– Charter of the Permanent Central American Commission;<br><br>– Central American Convention on the Prevention and | – ODCCP;<br><br>– CICAD/OAS;<br><br>– Ministry of Education (MINED);<br><br>– Ministry of Public Health and Social Welfare (MSPAS);<br><br>– Ministry of Foreign Affairs;<br><br>– National Secretariat for the Family (SNF);<br><br>– Salvadoran Institute for the Protection of Minors (ISPM); | Activities of COSA consist in coordinating all national efforts to reduce the demand and control the supply of drugs. Those directly responsible for ensuring compliance with the legal instruments are the institutions listed in the "Liaisons" column. |

| *Institution* | *Operational unit* | *Activities* | *Applicable legislation* | *Liaisons* | *Observations* |
|---|---|---|---|---|---|
| | | – Planning, directing, coordinating and taking all types of administrative measures aimed at preventing and controlling the entry and distribution of illicit drugs in the country;<br>– Preventing the cultivation, production, manufacture, trafficking and consumption of unauthorized substances;<br>– Authorizing public awareness campaigns about the effects of drugs, using any means of social communication. | Punishment of Money-laundering Crimes Linked to Illicit Drug-Trafficking and Related Crimes;<br>– Framework Treaty on Democratic Security in Central America;<br>– Treaty on reciprocal legal assistance in criminal matters among the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama.<br>*National*:<br>– Executive Decree No. 86 of 9 October 1995 (*Official Gazette* No. 193, vol. 329, of 18 October 1995);<br>– Health Code;<br>– Penal Code;<br>– Code of Criminal Procedure;<br>– Drug-Related Activities Act;<br>– Money Laundering Act. | – PNC/DSJ;<br>– Salvadoran Social Security Institute (ISSS);<br>– National Emergency Committee (COEN);<br>– Ministry of the Interior, Medical Preventive Unit;<br>– Technical Anti-Doping Unit of the Office of the Deputy Minister of Transport;<br>– PNC/DAN;<br>– FGR/UIF/UANT;<br>– CSSP;<br>– Ministry of National Defence (MDN);<br>– Ministry of Finance;<br>– Autonomous Port Executive Committee (CEPA);<br>– Supreme Court of Justice;<br>– National Council of the Judiciary (CNJ).<br>*NGOs*:<br>– FUNDASALVA;<br>– HOCRAD;<br>– Olaf Palme; | |

| *Institution* | *Operational unit* | *Activities* | *Applicable legislation* | *Liaisons* | *Observations* |
|---|---|---|---|---|---|
| | | | | – Hogar CREA;<br>– Teen Challenge;<br>– REMAR, among others.<br>*Private entities*:<br>– National Private Enterprise Association (ANEP);<br>– Communications media;<br>– Universities, etc. | |

[1] Powers granted under Executive Decree No. 86 of 9 October 1995 (*Official Gazette* No. 193, vol. 329, of 18 October 1995).

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# Letter dated 2 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/389).

The Counter-Terrorism Committee has received the attached supplementary report from Slovakia (see annex), submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant
to resolution 1373 (2001) concerning counter-terrorism

02-47933 (E) 220702

## Annex

### Letter dated 19 June 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Slovakia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I hereby have the honour to forward the reply to the comments/questions of the Counter-Terrorism Committee with respect to the report of Slovakia submitted on 19 December 2001 pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001. Comments and questions were contained in your letter dated 27 March 2002.

The Slovak Government is ready to provide the Committee with further information if necessary or requested by the Committee.

(*Signed*) Klára Novotná
Ambassador
Chargé d'affaires a.i.

# REPLY OF THE GOVERNMENT OF THE SLOVAK REPUBLIC TO THE ADDITIONAL QUESTIONS/COMMENTS OF THE COUNTER-TERRORISM COMMITTEE ON REPORT OF THE SLOVAK REPUBLIC SUBMITTED ON 19 DECEMBER 2001 PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 1373 (2001) OF 28 SEPTEMBER 2001

Bratislava, 18 June 2002

Sub-paragraph 1 (a):

***Could Slovakia please explain whether the measures referred to in connection with this sub-paragraph permit the freezing of the deposits and funds of individuals and groups connected to terrorism other than UNITA and the Taliban.***

Measures referred to in sub-paragraph 1(a) along with this Decree of the Slovak Government, allow only freezing of the deposits and funds of UNITA and the Taliban-related individuals and groups and their relatives. This Government decree was adopted on 3 April 2002 and entered into force on 6 June 2002.

However, the provision of Article 56a of the Foreign Economic Relations Act No. 42/1980, vests power with the Government of Slovakia to adopt such decrees regarding any entity should the UN Security Council decide on specific sanctions.

By its Resolution No. 419/2002 of 24 April 2002, the Slovak Government approved a draft law on international sanctions maintaining international peace and security (Sanction Act), which comprehensively addresses the implementation of sanctions imposed by the UN Security Council as well as the Council of the European Union through decrees of the Government. The Slovak Parliament will consider this draft law by September 2002. Prior it's entering into force, the above-mentioned Act No. 42/1980 is applicable.

***Please provide outlines of and progress reports on any further decrees of the kind referred to in relation to this sub-paragraph.***

Currently, an amendment to the Government decree is under preparation. It will update the list of UNITA and the Taliban entities subject to sanctions. In this respect, no other Government decrees are envisaged.

However, measures designed to implement sub-paragraph 1(a) of the Resolution 1373 (2001) include administrative measures adopted by the Financial Police of the Slovak Police Force Presidium which in co-operation with other organisational units of the Police Force Presidium (notably Counter-Terrorism Department of the Office of Organised Crime subordinated to the Criminal and Financial Police of the Police Force Presidium) drew up the list of entities (individuals, companies, organisations, foundations and associations) suspected of terrorism and/or supporting terrorism. This list was provided to banks and branches of foreign banks operating in Slovakia, to investigate whether or not such entities operate in the Slovak Republic. The financial institutions pay special attention to suspicious accounts and immediately report relevant findings (unusual financial transactions) to the Financial Police. Findings are regularly assessed. So far, no activity of these entities has been detected in Slovakia.

Sub-paragraph 1 (b):

***What is the extent of the competence of your courts to deal with terrorist acts, or preparations for terrorist acts, that occur outside your territory?***

With respect to crimes of terror under Articles 93, 93a of the Slovak Penal Code, the law stipulates universal jurisdiction of Slovak courts irrespectively of the place where such crime was committed and irrespectively of the perpetrator. The same applies to criminal offences of unauthorised production and possession of nuclear material and highly risky chemical substances under Articles 186 and 187. In respect of other terrorist criminal offences (endangerment of the safety of aircraft or civilian vessel under Article 180a, hijacking of aircraft and keeping it abroad under Article 180c, prohibited acquisition or possession of firearms under Article 185, establishing, masterminding and supporting a criminal group under Article 185a, taking of hostages under Article 234a, legalisation of proceeds of crime under Article 252, etc.) if committed outside the territory of the Slovak Republic, Slovak courts have jurisdiction only if such crime was committed by a Slovak national or a person having permanent residence in the Slovak Republic or if such crime was committed abroad by another person and the act is considered a criminal offence under penal law applicable where the crime was committed and the perpetrator was captured in the Slovak Republic and was not extradited.

In respect of proposed new criminal offences under Articles 94 and 185, paragraph 2 (see the answer to the second question under this item), universal jurisdiction of Slovak courts will be also established.

***Please provide a progress report on the incorporation into Slovak law of the International Convention on the Suppression of the Financing of Terrorism.***

By its resolution No. 328/2002 of 3 April 2002, the Slovak Government approved a proposal for an amendment to the Penal Code, which introduces new elements of crime of "terrorism" (within the meaning of the provisions of Article 2, paragraph 1, sub-paragraphs a), b), paragraphs 4 and 5 of the Convention)

(1) "Any person who with the intention to intimidate a population, seriously destabilize or destroy the constitutional, political, economic or social system of a country or an international organization, or to compel a Government or an international organization to do or abstain from doing any act, threats to commit or commits intentionally a serious crime against life, health of people or property, shall be sentenced from twelve to fifteen years of imprisonment or shall be punished by an extraordinary sentence and forfeiture of property.

(2) The perpetrator shall be punished by an extraordinary sentence and forfeiture of property if:

a) He commits the criminal offence referred to in paragraph 1 as a member of terrorist group,
b) He commits such offence in an extraordinarily brutal manner,
c) The offence causes serious bodily injury or death of several persons,
d) He commits such offence against constitutional representatives, persons protected by international law, the armed forces, armed security corps or armed corps.

In the Slovak Republic, the act of financing of terrorism constitutes a crime under Article 7 (preparation for a crime), Article 10 (participation in a criminal offence), and/or Articles 252, 252a (the crime of legalisation of proceeds of crime). In its Article 89, paragraph 28, the new amendment to the Penal Code also defines the term "terrorist group" as a group of at least three persons set for an indefinite period of time having the objective to commit a crime of terror or terrorism. In addition to this, Article 185a (establishing, masterminding and supporting a criminal group) of the amendment introduces the crime of establishing, masterminding, supporting and caring out activities for a terrorist group (Paragraph 2 of Article 185a) With respect to this crime the amendment establishes a sentence of form five up to fifteen years if imprisonment along with the sentence of forfeiture of property.

The provision of Article 199 (crime of dissemination of a false alert) was modified so that it allows criminal responsibility of persons sending a fake anthrax even without any accompanying text.

The above-referred criminal offences are considered as serious crimes. Further, they were established as criminal offences subject to a limited possibility of conditional release and non-applicability of statute of limitations. Immunity from prosecution is allowed only on the basis of timely effective repentance by voluntarily and timely reporting of a criminal offence or preventing or rectifying harmful consequences.

Articles 55 and 73 extend the scope of the sentence of forfeiture of property also to assets that could be used to finance terrorism. Some other related provisions of the Penal Code were also modified appropriately, notably Article 185b, which governs the criminal non-responsibility of the perpetrator in respect of establishing, masterminding and supporting a criminal group or a "terrorist group" and Article 185c on the participation of agent in a criminal or "terrorist" group.

The obligations set forth in Article 7, paragraph 2, subparagraphs a) to e) of the International Convention for the Suppression of the Financing of Terrorism are implemented in the provisions of Chapter III (Articles 17, 18, and 19) – Scope of Penal Legislation and by the provision of new Article 94 of the Penal Code (terrorism).

In respect of the introduction of liability of legal persons in accordance with Article 5 paragraph 1 of the Convention, the existing Slovak legal system allows imposing administrative sanctions (monetary sanctions, and/or withdrawal of licences). The envisaged re-codification of the Penal Code (year 2003) will also introduce criminal responsibility of legal persons.

International co-operation and legal assistance in criminal proceedings under Articles 9 to 17 of the Convention are already governed by the existing legislation – the relevant provisions of the Code of Criminal Procedure.

With the view of the implementation of the Convention, the Government by its resolution No. 408 of 24 April 2002 approved certain amendments to the Money Laundering Act No. 367/2000, concerning among others:

- Widening the number of obligated persons pursuant to Article 3 of the Act;
- Identification and detection of the beneficial owner of funds;
- Period during which an unusual financial transaction can be suspended;

- Introduction of the provision on non-application of legal responsibility where certain obligations under this law imposed on the obligated persons are carried out in good faith.

The amendment also specifies the minimum amount when the obligated person is obliged to identify any natural or legal person when preparing or carrying out the business transaction. The amendment lays down this amount at Euro 15 000. The obligated person may decline to carry out such transaction. The period during which all necessary documents on domestic and international transactions are to be kept was specified for 5 years and thus it is provided for the implementation of the obligations resulting from Article 18, paragraph 1, subparagraph b) iv of the Convention.

The amendments to the Penal Code and Act No. 367/2000 are expected to be adopted by the Slovak Parliament in June 2002 and to come into effect as of 1 July 2002 and 1 September 2002 respectively.

Sub-paragraph 1 (c):

***Please explain whether, and if so, by what means, the Slovak Republic can freeze funds/assets which are suspected of having terrorist links, without the need for a request of the SC, either on its own initiative or upon request of another country/international organisation.***

The existing Slovak legislation allows to freeze funds/accounts suspected of having terrorist links on the basis of a decree of the Slovak Government which may be issued in accordance with Article 56a of the Foreign Economic Relations Act No. 42/1980 following a decision of the UN Security Council on particular sanctions After the adoption of new Sanction Act, the Slovak Government will be empowered to issue decrees also on the basis of decisions of the Council of the European Union.

On the basis of a decision taken by another country, funds may only be frozen and subject to forfeiture in judicial criminal proceedings.

In judicial criminal proceedings, Article 79c of the Code of Criminal Procedure allows to freeze funds (if they are considered important for the criminal proceedings) in an account. This also applies to funds/assets related to terrorist activities. The presiding judge or prosecutor in pre-trial procedure may order such measure. The Code of Criminal Procedure also allows the prosecutor to issue such order even not within the pre-trial procedure where there is an urgent need and the decision is subsequently confirmed by the judge within 3 days. The order must be in writing and justified. It must specify the amount of funds and currency. The order also includes a ban on any disposal of the frozen funds. When funds are no longer needed to be frozen for the purpose of the criminal proceedings, such order shall be cancelled and/or restricted up to a necessary amount. The order must be delivered to the relevant bank. The same procedure applies to the requests of foreign courts and authorities (Chapter 24 of the Code of Criminal Procedure).

***Is the making of the decrees mentioned in relation to sub-paragraph 1 (c) dependent on specification by the UN or any other body or particular persons?***

Yes, it is. Under the existing Slovak legal system a decree of the Slovak Government may only be issued upon a decision of the UN Security Council (or the Council of the European Union once the Sanction Act is adopted).

***Is the operation of any such decrees dependent on the specification in them of the names of particular persons or are they capable of application generically?***

The Slovak Government decrees adopted and issued on the basis of Article 56a of the Foreign Economic Relations Act No. 42/1980 do not need to identify persons subject to international sanctions (Article 56a only refers to examples) and such decrees may also impose requirements, prohibiton or any other restrictions specified in the relevant decision of the UN Security Council, which imposes international sanctions under Article 41 of the UN Charter. However, the Slovak Government decree of 3 April 2002 concerning the movements of UNITA and the Taliban contains such specification of persons.

***Could Slovakia please confirm whether the controls mentioned in this answer apply only to "interest" or whether they also apply to capital.***

The provision of Article 56a of Act No. 42/1980, on the basis of which the accounts of sanctioned entities can be frozen, also applies to interest and capital.

Sub-paragraph 1 (d):

***As there is a likely to be uncertainty as to the correspondence between acts which are considered offences under the Resolution and offences existing under the current penal laws, is there a proposal to create a separate law relating specifically to acts of terrorism, or actions related thereto, so as to achieve compliance with the Resolution? (It is noted that, in the answer under sub-paragraph 2 (f), Slovakia intends to import the definitions of "terrorist act" and "terrorist group" into its own Penal Act and Criminal Procedure Code. It would be useful to receive a progress report on this development).***

See answer to sub-paragraph 1 (b).

***Please describe any surveillance and control mechanisms that Slovakia has put in place to ensure that funds for the financing of terrorism are not channelled through charitable, religious or cultural organisations.***

Act No. 367/2000 on the legalisation of proceeds of crime governs the rights and obligations of natural and legal persons in respect of the prevention of legalisation of proceeds of crime and its detection. The amendment to this law, which is expected to come into effect as of 1 September 2002, has extended the definition of unusual business transaction (the provision of Article 4 of the Act) to activities in the field of the financing of terrorism. "Unusual business transaction" is defined as a legal act or any other act indicating that the carrying out of such act could result in the legalisation of proceeds of crime or financing of terrorism". This means that the reporting to

the Financial Police on unusual business transactions will also apply to the suspicions about financing of terrorism.

Articles 252 and 252a of the Penal Code also govern the crime of legalisation of proceeds of crime.

Under Article 56a paragraph 2 of Act No. 42/1980 as amended by Banking Act No. 483/2001, any person is obliged to comply with the international sanctions imposed by the UN Security Council, including charities, religious or cultural organisations. Such organisations are registered with the Ministry of Interior of the Slovak Republic.

The administrative measures referred to in the answer to the second question under sub-paragraph 1 (a) are also implemented in order to prevent these activities.

Sub-paragraph 2 (a):

***Does article 185a of the Penal Code apply both to groups found within Slovakia and groups formed outside for the purpose of perpetrating terrorist acts?***

The existing Article 185a of the Penal Code applies to groups found within the territory of the Slovak Republic and within the scope of the jurisdiction of Slovak courts it also applies to groups formed abroad. The scope of jurisdiction of Slovak courts is explained under sub-paragraph 1 (b) above.

Following the adoption of the amendment to the Penal Code, which will introduce the crime of establishing, masterminding and supporting a terrorist group under Article 185a paragraph 2, the principle of universality will apply.

***Please could Slovakia clarify what is meant by "weapons of mass efficiency". Does this mean weapons of mass destruction or simply weapons such as machine guns and hand grenades?***

The Slovak legal system distinguishes two terms:

1. Under Article 185 of the Penal Code "weapon of mass efficiency" means a weapon that when normally used may kill several people at the same time or cause serious bodily injury to several people (for instance, hand grenades, machine guns, etc.). However, rifles, pistols and other similar weapons that after one loading can shoot several times in a row (so-called repeating weapons) are not considered weapons of mass efficiency.
2. Under Act No. 179/1998 on trading in military material, "weapon of mass destruction" means nuclear, chemical or biological weapon.

***Please elaborate on the measures taken so far to prevent the recruitment to terrorist groups and the supply of weapons to terrorists.***

The Penal Code contains legal provisions designed to prevent recruitment for terrorist groups and supplies of weapons to terrorists. These provisions govern:

A. Crimes of establishing, masterminding and supporting a criminal group. Following the adoption of the amendment to the Penal Code, such provisions will also apply to terrorist groups (Article 185a, paragraph 2). Certain forms of criminal co-operation are also punishable under criminal law, notably incitement (to commit the above-mentioned crime) under Article 164, advocating a criminal offence (Article 165), abetting a criminal offence (Article 166), and failure to report a crime (Article 168). It is also possible to punish acts advocating and promoting a movement towards the suppression of the rights and freedoms of citizens (Articles 260, 261).

B. Crime of prohibited acquisition and possession of firearms (Article 185) where, as of 1 August 2001, the sentence was increased to form 1 up to 5 years of imprisonment (in respect of a perpetrator who without having an appropriate licence produces or acquires a firearm for himself or any other person or possesses such firearm; an alternative pecuniary punishment or confiscation may also be applied), from 2 to 8 years of imprisonment (for perpetrators who without having an appropriate licence acquires a weapon of mass efficiency for himself or any other person or possesses such weapon or components that are necessary for the use of such weapon or collects, produces or acquires firearms, ammunition or explosives for himself or any other person, or who designs, constructs or uses an establishment for the production of firearms), from 3 to 10 years where such crime was committed to the grater extent, in an organised group or during the state of emergency and form 5 to 12 years where such crime was committed to the great extent or in connection with an organised group operating in several countries;

C. Crime of prohibited production and possession of narcotic drugs, psychotropic substances, poisons, precursors and dealing in such substances (Articles 186, 187);

D. Crime of prohibited production and possession of nuclear materials (including radioactive materials) and highly risky chemical substances (Articles 187a, 188).

In addition to the provisions of the Penal Code, this issue is also governed by Act No. 179/1998 on trading in military material. The amendment to this Act, which came into effect on 1 February 2002, introduced stricter conditions and requirements in respect of trading in military material. The amendment also eliminated the existing shortcoming that allowed importing and exporting of military material and weapons without any licence under the refurbishing regimes. The Act also specifies the role, the powers and responsibilities of the Licensing Commission operating within the Slovak Ministry of Economy, which grants licences for import, export and other handling of military material. As of 1 March 2002, the Slovak Customs Administration is also represented in the Commission. This arrangement has significantly enhanced the legal involvement of customs authorities in respect of the control of trading in military material. Under this Act, a financial sanction from ten thousand up to ten million SKK (Slovak koruna; 1 USD = 48 SKK) may be imposed according to the gravity of the offence.

Act No. 26/2002 on the conditions of import, export or brokering of goods or technology subject to international control regimes came into effect on 1 February 2002. It is also aimed to prevent illegal sale and supply of dual-use goods. The Act also introduced obligation to apply for licence for refurbishing import. A violation of obligations under this Act may be sanctioned by a financial penalty up to 10 million SKK or threefold of the price of goods should this be more than SKK 10 million or forfeiture of goods. In addition to these sanctions, a violation of any ban or restrictions regarding the handling and disposal of controlled goods, the unlicensed export of

controlled goods or transfer to another country or foreign organisation and/or any other violation of the provisions of this Act may be considered as crime of violation of regulations on the disposal of controlled goods and technology under Articles 124a, 124b and 124c of the Penal Code, which may be sentenced from 3 to 8 years of imprisonment, pecuniary punishment, forfeiture of property or prohibition of activity.

The purpose of the Sanction Act (see answer under sub-paragraph 1 (a) ) in this area is to eliminate the shortcoming of the existing legislation, notably in respect of trading in goods that are not subject to licensing procedure as well as sanctions on services and financial transactions.

Administrative measures in this area include measures carried out by the Office of Organised Crime of the Criminal and Financial Police Administration, which is part of the Police Force Presidium, in co-operation with the Military Intelligence and the Slovak Intelligence Service to prevent supplies of weapons and related military material of any kind to persons and organisations subject to sanctions.

Sub-paragraph 2 (b):

***Please provide further information on the early warning system mentioned in sub-paragraph 2 (b).***

International co-operation and information exchange (including the early warning system) are based on bilateral international agreements, including agreements on legal assistance. These are mainly agreements concluded with the neighbouring countries, the member states and institutions of the European Union. The exchange of information regarding the fight against terrorism is channelled via the National Centre of Interpol. The existing legal and institutional instruments are also used, including co-operation with Interpol, Europol and the FBI. Since November 2001, the Slovak Republic has been collaborating with all the EU Member States, Switzerland and Norway within the Working Group for Terrorism (PWGT) – as it was already specified under sub-paragraph 3 (a) of the Slovak Republic Report for the CTC. The priorities of this Working Group include operational co-operation involving competent operational services responsible for the fight against terrorism. The Group also creates and supports a network of liaison officers, organises specialized internship programmes and training for policemen. Should the need be, direct contacts are established with foreign counterparts via liaison officers, police attachés and/or meetings with counterparts in the partner neighbouring countries in order to provide for the flow and exchange of information.

As of 1 December 2001, the co-operation among police authorities is possible also on the basis of the Police Force Act No. 171/1993, notably Articles 77a, 77b and 77c of Chapter Six of the Act governing relations between the Slovak Police Force and state authorities, municipalities, natural and legal persons and other countries, organisations and authorities. Under the provisions of Article 77a

(1) Police Force co-operates with the police forces of other countries, international police organisations, international organisations and organisations operating in other countries mainly by means of the exchanges of information, liaison officers and/or other means.

(2) Police Force may carry out its tasks and duties also outside the territory of the Slovak Republic in accordance with international agreements binding upon the Slovak Republic or agreements of the involved parties.

(3) To carry out the tasks and duties of the Police Force also outside the territory of the Slovak Republic, the Ministry of Interior of the Slovak Republic may place policemen with international police organisations, police forces of other states, international peace-keeping missions, operations of civil crisis management or upon agreement with the Ministry of Foreign Affairs policemen may be placed with the embassies, consulates and missions of the Slovak Republic or international organisations.

Under the provisions of Article 77b

(1) A policeman is authorised to operate within the territory of another country

a) In accordance with the conditions of, within the scope and by means laid down by international agreements binding upon the Slovak Republic;

b) Upon a decision of the Slovak Government on participation in peace-keeping operations in line with the decisions of an international organisation of which the Slovak Republic is a member or with which the Slovak Republic entered into relevant agreements or

c) If he was sent to carry out the tasks and duties of the Police Force on the basis of a decision of the Slovak Interior Minister and upon the consent or request of the relevant authorities of the other country.

Under the provisions of Article 77c

(1) In accordance with the terms and conditions of, within the scope of and by means laid down by an international agreement binding upon the Slovak Republic, a policeman of other country may apply the powers and carry out the duties of policeman within the territory of the Slovak Republic.

(2) In the absence of such international agreement, if the implementation of Police Force tasks and duties require so, a policeman of another state may be used within the scope laid down by this Act if the Slovak Interior Minister or a person authorised by him gave his consent and the relevant authority of the other country agreed to this. Such policemen may be used

a) In the capacity of agent or undercover agent,
b) To carry out a false transaction,
c) To pursue persons and things or
d) To deploy information-and-technical means and trap and alarm devices.

(3) The operations of the policemen of the other country in respect of tasks and duties referred to in sub-section 2 are guided and controlled by a policeman.

Within the scope of their competence in this area, the customs authorities set up and operate information systems designed to collect and process data obtained in the area of control carried out by the customs authorities. In order to fight international terrorism efficiently, the customs authorities actively co-operate with their counterparts in other countries.

***Please provide the CTC with information on the mechanism for interagency cooperation between the authorities responsible for narcotics control, financial tracking and security with particular regard to the border controls preventing the movement of terrorists.***

As already mentioned above, the information systems set up and operated by the customs authorities. They are designed to gather and process relevant data. In operations, the customs authorities actively co-operate with their counterparts in other countries as well as with other bodies of state administration in the Slovak Republic having responsibilities in this area.

On the basis of the order of the President of the Slovak Police Force that strengthened the service, intensified control operations and measures designed to check the locations where aliens from the area concerned may occur, stricter controls of persons and transport vehicles are carried out in co-operation with the customs authorities at border crossings. Patrol operations in respect of the protection of the state border as well as security measures at public airports have been strengthened. The AFIS (Automated Fingerprint Identification System) has been installed at the border checkpoints. Under Article 5 paragraph 4 of the Refugee Act No. 283/1995, an alien applying for the status of refugee may be examined for his fingerprints. Where an alien illegally entering the territory of the Slovak Republic is detained, his identity is screened through the register of terrorists at the nearest border crossing.

Upon the Order of the President of the Police Force No. 50 of 11 September 2001 regarding the implementation of tasks and duties in the aftermath of the terrorist attacks on the USA, the Office of Border and Alien Police of the Presidium of the Police Force adopted special measures. The above-referred order is confidential and contains measures designed to acquire information on potential perpetrators and/or organisers of terrorist attacks, to monitor security situation and conditions in the Slovak Republic, particularly weapons, explosives and ammunition, to protect strategic facilities and monitor targeted groups that could have links with terrorism. When carrying out these duties, the Office of Organised Crime of the Administration of the Criminal and Financial Police of the Police Force Presidium co-operates with the Slovak Intelligence Service and Military Intelligence.

Counter-Terrorism Department of the Office of Organised Crime working with other organisational units of the Police Force Presidium, particularly the Office of the Financial Police of the Administration of the Criminal and Financial Police of the Police Force Presidium regularly investigates whether or not persons included in the list drew up by the Office of the Financial Police (see answer to the second question under sub-paragraph 1 (a) ) operate in the Slovak Republic.

In early April 2002, the TRACKER communication and information system was introduced to process and assess information on transactions of military material and dual-use goods as well as direct communication between the involved ministries and agencies.

Under Article 72a of the Police Force Act No. 171/1993

(1) The Minister of Finance of the Slovak Republic and the Governor of the National Bank of Slovakia (hereinafter referred to as "the Governor") may ask the Minister of Interior for the implementation of tasks and duties by the Financial Police in the area of the detection of tax evasion and illegal financial transactions or legalization of proceeds of crime where the

Ministry of Finance or the National Bank of Slovakia do not have sufficient capacity or capability to carry out such tasks and duties. This does not apply to the matters of tax evasion and illegal financial transactions or legalization of proceeds of crime related to the violation of customs regulations.

(2) To implement tasks and duties referred to in sub-section 1, the Minister of Finance or the Governor shall provide the Financial Police with necessary information.

(3) The Financial Police shall provide the Minister of Finance or the Governor with information gained when implementing tasks and duties referred to in sub-section 1 or other service operations where such information is necessary for the operation of the Ministry of Finance or the National Bank of Slovakia.

Sub-paragraph 2 (c):

***The answer in relation to this sub-paragraph refers specifically to a proposed Asylum Law. Please clarify whether there are any provisions under existing laws which exclude from access to Slovakia persons of the kind mentioned in sub-paragraph 2 (c) of the Resolution who are not asylum seekers.***

Conditions for entering the territory of the Slovak Republic for aliens as well as the conditions for their residing in the Slovak Republic are governed by Act No. 48/2002 on the residence of aliens. Under the provisions of this law, the territory of the Slovak Republic may only be entered by a person with a valid travel document and Slovak visa or a travel document and a residence permit. In addition to this, the territory of the Slovak Republic may only be entered at a border crossing assigned for international traffic during working hours. Upon entering the territory of Slovakia, an alien is obliged to undergo a border control and present documents in compliance with Article 4 upon request. The Act authorises police to performing border control to cancel visa where

1. Alien is an undesirable person,
2. There is a justified suspicion that the alien would endanger the state security, public order, the heath or rights and freedoms of others.

Under Article 6, police shall deny entry into the territory where

1. Alien is an undesirable person,
2. It is necessary for the state security, the maintenance of public order, the protection of health and rights and freedoms of others,
3. Alien does not comply with the requirements for entry,
4. Alien rejects to undergo a border control or fails to submit necessary documents,
5. There is a justified suspicion that the alien would abuse his stay for a purpose other than stipulated by international agreements, the Slovak Government or the purpose for which he was granted the visa.

Any entry by an alien from a third country subject to visa requirements is checked against the register of the undesirable aliens. Where the alien is listed in the register, his entry to Slovakia is denied. The register of the undesirable contains all aliens who have been deported from the Slovak Republic and prohibited from entering the country. The register of the undesirable is updated on a daily basis and the time of entry prohibition is set individually according to the time specified in the decisions on deportation of alien.

Police units operating at border crossings keep records called "TERROR". This is a database of terrorists or suspected terrorists. Any alien from a third country subject to visa requirements is checked against this database. In addition to these records, the AFIS system described in answer to question under sub-paragraph 2 (b) is run.

However, under Article 7 entry to the country may not be denied to an alien who during his border control applied for the status of refugee in the Slovak Republic, the provision of interim asylum in the Slovak Republic or who was issued a travel document of alien.

Sub-paragraph 2 (d):

***Is there a provision for expelling or extraditing groups planning terrorist acts against other states?***

The extradition of groups planning terrorist acts against other countries is governed by Articles 379 to 389 of the Code of Criminal Procedure. However, if there is an international agreement binding upon the Slovak Republic, such agreement takes priority over national legislation.

According to the provision of Article 21 of the Penal Code, a Slovak national may also be subject to extradition if such obligation is established in applicable international agreement or a decision of an international organisation that is binding upon the Slovak Republic.

The term "expulsion" has two meanings in the Slovak legal system:

A. Administrative procedure – the expulsion of an alien from the territory of the Slovak Republic. The conditions and requirements in respect of expulsion are governed by Act No. 48/2002 on the stay of aliens;
B. Sentence under Article 57 of the Penal Code.

*Re A.:* Article 56 if Act No. 48/2002 on the stay of aliens stipulates that "administrative expulsion is a decision of a police unit on the termination of the stay of an alien specifying a period during which he is to leave the country and a period during which he is prohibited from entering the country. Mass expulsion of aliens on the basis of a single decision is not permitted. Under Article 57, the grounds for administrative expulsion include:

(1) The police unit shall expel an alien and specify prohibition to enter the country

a) For ten years where he/she

1. Endangers the security of the state, public order, the health or rights and freedoms of others or nature or
2. Was sentenced for a intentional criminal offence and the sentence of expulsion was not imposed;

b) For five years where he/she:

1. Violated regulations on narcotic drugs and psychotropic substances,
2. Submitted false or altered documents upon control under this law,

3. Carries out activity other than the activity for which the permit for interim residence was issued,
4. Married with the intention to acquire a residence permit,

c) For from one up to five years where
1. He/She entered or resides in the Slovak Republic without an authorisation,
2. He/She rejects to prove his/her identity in a reliable manner,
3. He/She resides in the Slovak Republic on the basis of an international agreement or a decision of the Slovak Government and acts in contradiction with such international agreement or such decision,
4. He/She intentionally provided false or incomplete information in proceedings for residence permit,
5. It comes to the knowledge of the police unit that the purpose for which the interim residence permit was granted to the alien ceased to exists and the alien failed to report this fact to the police unit,
6. He/She frustrates the execution of a decision of state authorities or
7. He/She otherwise seriously violated or repeatedly violates generally binding legal regulations.

(2) If there are several reasons for administrative expulsion under paragraph 1, the police unit will determine the period of expulsion according to the strictest provision.

(3) Where one of the reasons for administrative expulsion is a reason referred to in paragraph 1 sub-paragraph c)i, an appeal against the decision on administrative expulsion does not have the effect of suspending the enforcement of the decision. This does not apply to an alien whose application for the status of refugee according to a special regulation was rejected.

(4) An alien in respect of whom a decision on administrative expulsion was issued is obliged to leave the country within the time limit prescribed in the decision; such time limit may not exceed 30 days after entry into force of the decision.

(5) Where an alien resides in the Slovak Republic on the basis of residence permit, the police unit may order the place of his residence until the decision on administrative expulsion enters into force.

(6) Upon the enforceability of the decision on administrative expulsion, the police unit will record data on the alien, the period of expulsion and grounds on which the decision was issued. Such records are kept in the register of undesirable persons. The Ministry of Interior discards alien out of the register of undesirable persons upon the expiration of his expulsion period.

Sub-paragraph 2 (f):

***What does Slovakia mean when it says that it is bound by international agreements providing the legal assistance with respect to a "sufficient number states"?***

The Slovak Republic has concluded bilateral agreements of legal assistance in criminal matters

with a number of countries (for instance, Afghanistan, Albania, Algeria, Armenia, Azerbaijan, Byelorussia, Bosnia and Herzegovina, Bulgaria, Cyprus, Czech Republic, Greece, Croatia, Yugoslavia, Yemen, Kazakhstan, North Korea, Cuba, Macedonia, Hungary, Moldavia, Mongolia, Poland, Austria, Rumania, Russia, Slovenia, Syria, Italy, Tajikistan, Tunisia, Turkmenistan, Ukraine, Uzbekistan, Vietnam) and is a State Party to all multilateral conventions on legal assistance referred to in sub-paragraph 3 (c). The Slovak Republic concluded agreements on the extradition of offenders with Belgium, Ireland, South Africa, Canada, Luxembourg, Monaco, New Zealand, Portugal and the USA.

Sub-paragraph 2 (g):

***Could Slovakia please describe how the procedures for the issuance of identity papers and travel documents prevents the counterfeiting, forgery or fraudulent use of those documents***

The requirements of the issuance, withdrawal, types of travel documents as well as the rights and duties of Slovak nationals and persons without nationality permanently residing in the Slovak Republic and non-compliance procedures are governed by Act No. 381/1997 on travel documents. Under this Act, a travel document (as well as identity card) is a public document. The Act stipulates the following types of travel documents:

a) Travel passport,
b) Diplomatic passport,
c) Service passport,
d) Travel card,
e) Travel identity card,
f) Other documents.

In his/her application for a travel document, the applicant is obliged to provide true and complete data. The authenticity and comprehensiveness of such data must be accompanied with relevant documents. Where an applicant fails to prove the authenticity and completeness of required data by submitting relevant documents, he is obliged to submit background documents for the purpose of verification.

Under Article 26 of this Act, an administrative offence is committed by a person who

a) Crosses the state border without having a valid travel document, unless it is permitted by an international agreement;
b) Has a valid travel document, but crosses the state border not at the point of entry assigned for international traffic, unless such state border crossing is permitted by an international agreement;
c) Has a valid travel document, but crosses the state border when the border crossing is closed;
d) Unlawfully seizes somebody else's travel document or misuses such document;
e) Carries out or orders unlawful modifications in the travel document;
f) Intentionally uses an unlawfully modified travel document;

g) Intentionally avoids or refuses to be examined by the control of travel documents by state border crossing;
h) Provides a travel document to other person for the purpose of its misuse;
i) Violates other obligation laid down by this Act, if such doing makes the implementation of tasks and duties of state administration difficult;
j) Frustrates the enforcement of a decision on withdrawal of a travel document.

Offences set forth in sub-paragraphs a) to h) of the Act may be sanctioned by a financial penalty up to SKK 10,000. The offence set forth in sub-paragraph i) may be sanctioned by a financial penalty up to SKK 1,000.

The Slovak Ministry of Interior is in charge of the central register of issued documents. The register contains all relevant data on Slovak travel documents. At present, the exchange of information counter-terrorism (notably information on counterfeited public documents) is channelled through National Centre of Interpol.

Similarly to the issuance of travel documents, the requirements and conditions for the issuance of identity cards are governed by Act No. 162/1993 on identity cards. The design of identity card took into consideration the requirements specified by the International Standardisation Organisation based in Geneva (i.e. the relevant ISO standard) and the International Civil Aviation Organisation (i.e. ICAO standard 9303 for machine-readable documents). Each Slovak national who reached age 15 and permanently resides in the Slovak Republic shall possess an identity card. Identity cards are issued and records in them are made by the District Directorates of the Police Force (Police Unit") according to the permanent residence of national. A national applying for an identity card shall submit all documents required by the Act and he/she must show in person to be issued the identity card physically. The receiving of the card and authenticity of data recorded must be confirmed by cardholder's signature.

To ensure the application of a unified procedure for the issuance and registration of identity cards by all police units, internal regulations were adopted. These regulations are confidential. The relevant police units maintain a consolidated and detailed register of identity cards. Such records are subject to control carried out by the superior units of the Police Force, as required by Act No. 10/1996 on control in state administration.

Travel documents as well as identity cards are public documents and any counterfeiting, forgery and fraudulent use of such public document is considered a criminal offence under Article 176 of the Penal Act. Such offence is subject to a sentence of imprisonment up to two years or pecuniary punishment. A perpetrator is sentenced to 1-5 years if he committed such crime as a member of organized group or if such crime causes extensive harm or other extraordinary serious consequence.

Sub-paragraph 3 (a):

***Does the co-operation arrangement currently existing in Slovakia extend beyond Europe and NATO member countries?***

As of 1 December 2001, Articles 77a to 77c of the Police Force Act No. 171/1993 (see also answer under sub-paragraph 2 (b) in respect of the early warning system) provide a basis for the co-operation in the exchange of operational information, involving police forces of countries outside Europe and countries that are not members of NATO.

Sub-paragraph 3 (d):

***Please report on progress with legislation to give effect to the International Convention for the Suppression of the Financing of Terrorism.***

See answer under sub-paragraph 1 (b).

***Please report on progress of the Bill giving effect the International Convention for the Suppression of the Financing of Terrorism.***

On 10 June 2002, the Slovak Government submitted the International Convention for the Suppression of the Financing of Terrorism for the approval of Slovak Parliament. The ratification process of the Convention is expected to be completed by the end of July 2002.

Sub-paragraph 3 (e):

***Has the criminalisation of acts listed in the International Convention for the Suppression of the Financing of Terrorism already been incorporated in the Slovakian Penal Code or is that proposed to be done as mentioned in sub-paragraph 2 (f)?***

See answer under sub-paragraph 1 (b).

***Have the crimes specified in the relevant international conventions been included as extraditable offences in the bilateral treaties which Slovakia has concluded with other countries?***

On the basis of bilateral agreements on legal assistance, which also include provisions on extradition, the Slovak Republic is, upon request of other party, obliged to initiate a criminal procedure against its national who has committed an offence in the other contracting party's territory where such offence is a criminal offence under the legal systems of both Parties. Furthermore, under the terms and conditions specified by the relevant agreement the Slovak Republic is obliged to extradite persons for the purpose of their criminal prosecution or imprisonment for an offence that is considered a criminal offence under the legal systems of both Parties. Crimes referred to in the relevant anti-terrorist international conventions, to which the Slovak Republic is a Party, have already been implemented into the criminal codes of the Slovak Republic. These crimes are also included in the provisions of bilateral agreements on legal

assistance. After adoption of the amendment to the Penal Code by the Slovak Parliament, "terrorism" will also become an extraditable criminal offence.

On the basis of agreements, referred to in sub-paragraph 3 (c) of the Slovak Republic Report to the CTC (i.e. agreements on co-operation in the field of the fight against terrorism, illegal trafficking in narcotic drugs or other organised crime), the parties have been co-operating in their efforts to combat terrorism, illegal cultivation, acquisition, production, import, export, transportation, illegal possession and trade in narcotic drugs and precursors, as well as radioactive material and other organised crime, the prevention of such crime, detection of perpetrators of such crimes as well as the exchange of information and documents and other relevant data on matters covered by the above-mentioned agreements. Such agreements do not contain provisions on extradition.

Sub-paragraph 3 (f):

***Does Article 8, sub-paragraph c of the Slovak refugee Act, allow refusal of refugee status to a foreigner who has been involved in, but not convicted of, terrorist activity? If not, what other provision (if any) does so or what is proposed in this respect?***

Article 53 of the Slovak Constitution stipulates that asylum may be refused to a person who has acted in contradiction with the fundamental human rights and freedoms.

Under Article 8 of the Refugees Act No. 283/1995, the Ministry of Interior does not grant refugee status to an alien if he/she

a) Does not comply with the requirements laid down by Article 7 of the Act;
b) Has committed a crime against peace or humanity;
c) Comes from a country that the Slovak Republic considers a safe third country or a safe country of origin (the list of such countries is contained in the Governmental Decree No. 67/1996 as amended by Decree No. 168/2000 and is regularly updated). This does not apply if an alien proves it is not the case of this country or if he has repeatedly applied for refugee status and proceedings to grant such status was discontinued.
d) Was convicted of committing intentionally a serious crime;
e) Was found guilty of acts contradictory to the objectives and principles of the UN Charter;

Under Article 4, paragraph 8, a person who has applied for refugee status may not be extradited or returned to the country where he would be exposed to the danger of torture, inhuman treatment or death penalty on the grounds of race, nationality or religion, political affiliation or social status. This does not apply to any person in respect of whom there are serious indications that such person could present danger to the Slovak Republic or who has been convicted of committing intentionally a serious crime.

Under Article 9 paragraph 1, the Ministry of Interior shall withdraw refugee status if refugee committed a serious crime, for which he was convicted. Under Article 9, paragraph 2, the Ministry may withdraw refugee status when it has been proven that such status was granted to the refugee on the basis of false data or counterfeited documents.

The provision of Article 53 of the Constitution as well as the provision of the above-referred Act must be interpreted in the light of Article 50 paragraph 2 of the Constitution, which enshrines the general legal principle of presumption of innocence. Taking into consideration the above specified, refugee status must not be refused to a refugee who has not been found guilty for terrorist activities. The Slovak Republic has not yet encountered such a case.

It was already mentioned in sub-paragraph 3 (f) of the Slovak Republic Report to the CTC that the proposed wording of the new Asylum Act (which is expected to come into effect as of 1 January 2003), in its Article 13, fully respects and implements the exclusive clause of Article 1f of the 1951 Refugees Convention. The proposed provision reads as follows:

The Ministry of Interior of the Slovak Republic shall not grant asylum in the case of justified suspicion that the applicant

a) Has committed a criminal offence against peace, a war crime or a crime against humanity according to international instruments containing provisions on such crimes;
b) Has committed a serious non-political crime outside the territory of the Slovak Republic before he applied for asylum or
c) Is guilty of offences that breach the objectives and principles of the United Nations.

The exclusion of persons involved in terrorist acts from protection under the 1951 Refugees Convention may be based on any of the three reasons specified in Article 1f (Article 13 paragraph 1 of the proposed Act). In such cases, the alien applying for asylum and who has been involved in terrorist acts does not have necessarily to be found guilty. It suffices if there is justified suspicion that the applicant has committed acts set forth in Article 13 sub-paragraph 1 a) or b) or is guilty of crimes set forth in Article 13 sub-paragraph 1 c).

Sub-paragraph 3 (g):

***Apart from the provisions of the Refugee Act, what (if any) are there provisions in any other laws ensuring compliance with sub-paragraph 3 (g)?***

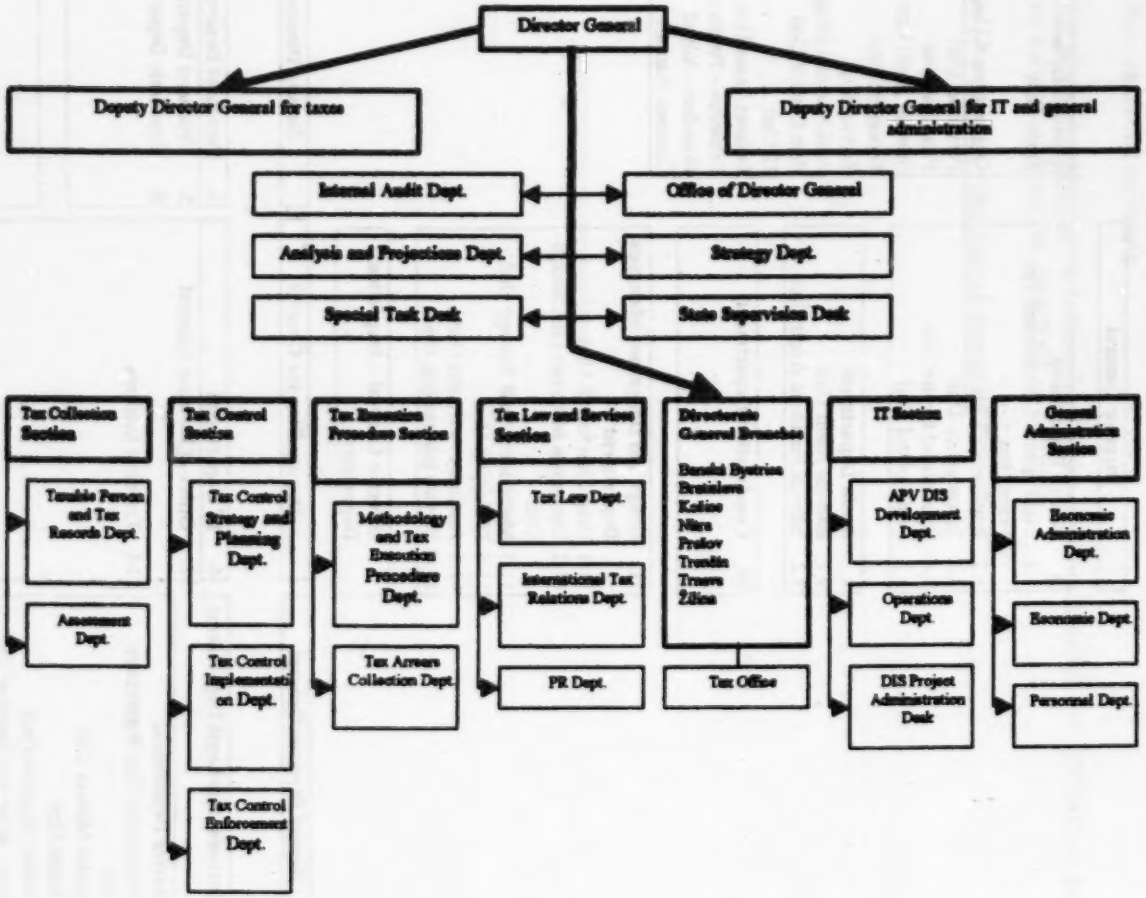
Where an applicant for refugee status is suspect of terrorist activities, he may also be detained and prosecuted in the Slovak Republic or upon the request of another country he may be extradited in criminal proceedings to the requesting country on the basis of agreements on mutual legal assistance. Information on such person can be provided to other countries, measures designed to freeze his property may be implemented, etc.

Annexes:

1. Organisational chart of taxation authorities of the Slovak Republic
2. Organisational chart of customs authorities of the Slovak Republic
3. Financial supervision authorities of the Slovak Republic
4. Organisational chart of the Police Force of the Slovak Republic

Annex 1

## Organisational chart of taxation authorities of the Slovak Republic



Annex 2

## Organisational chart of customs authorities of the Slovak Republic

**Director General**

**3. Search Department**
3.1. Fight against Customs and Tax Fraud Unit
3.2. Intelligence Unit
3.3 Investigation Unit
3.4 Operational Centre Unit
3.5 Post Control Unit

**9. Audit Department**
9.1. Internal Audit Unit
9.2. Internal Financial Audit Unit

**10. Construction Department**

**11. Drugs and Dangerous Materials Department**
11.1 Drug Line Search Unit
11.2 Dangerous Materials Line Search Unit
11.3 Methodology and Strategy Unit
11.4 IT Support Unit
11.5 Auxiliary Activities Unit
11.6 Service Intervention Unit

**Director General – Inspection Department**

**Customs Offices**
Legal Unit

Organisational Unit
Personnel Unit
Financial Unit
Internal Audit Unit
Economic Unit
Service Unit
Anti-Narcotic Drugs Unit
Post Control Unit
IT Unit
Indirect Taxes Unit
Branches – Points of Entry
Branches – Inland
Customs Stations

**Deputy Director General**

**1. Customs-and-Legal Department**

**2. Service Department**
2.1. Customs and Tax Supervision Unit
2.2. Border Matters Unit
2.3. Transit Unit
2.4. Control Regimes Unit
2.5 Arms, Ward and Training Unit

**12. Indirect Taxes Department**

**13. Customs Tariffs Department**
13.1 Customs Tariff Integration Unit
13.2 Nomenclature Unit
13.3 Origin of Goods Unit

**Deputy Director General**

**6. IT Department**
**7. Office of Director General**

**14. Training Institute**

**Deputy Director General**

**4. Personnel Department**
**5. Financial Department**
**8. Economic Department**

Annex 3

**Financial Supervision Authorities**

1. ***National Bank of Slovakia*** – is responsible for supervision under Section 6 sub-section 1 of Act No. 483/2001 on banks

2. ***Office for Financial Market*** - is responsible for supervision under Act No. 95/2002 on the insurance industry and Act No. 566/2001 on securities

3. ***Ministry of Finance of the Slovak Republic***

Annex 4

**Units of the Police Force Presidium in charge of the implementation of measures resulting from UN Security Council Resolution No.1373 (2001)**

1. ***Administration of the Criminal and Financial Police of the Police Force Presidium:***
- Financial Police Office
- Criminal Police Office
- Organised Crime Office
- National Anti-Drug Unit

2. ***Police Force Presidium:***
- Border and Alien Police Office

a/ Migration Office of the Ministry of Interior of the Slovak Republic

b/ Central Visa Authority
- Patrolling Police Department
- Traffic Police Department
- International Police Co-operation Office